

Stanton D. Allaben

Petitioner

-v-

United States of America

Respondent

January 14, 2003

CR#: 9:00-cr-517

C/A#: 9:02-3036-08

**FILED**

JAN 21 2003

LARRY W. PROPPS, CLERK  
CHARLESTON, SC

Traverse of Petitioner's §2255 Petition

And now comes petitioner, Stanton D. Allaben, in response to government's motion to dismiss defendant's motion, dated Jan. 6, 2003, offers the following reasons not to dismiss:

Petitioner is not looking to have the federal sentence vacated, but rather to have that sentence corrected. Petitioner would ~~have~~ no objection to filing a 28 USC §2241, however, it is more than likely that a court in New York will refer the matter back to the sentencing judge.

Furthermore, at the time of sentencing, the court did not know, nor expect, that the state of South Carolina was going to pursue their case. The resulting state sentence, which came a month later, was to run concurrent with the federal sentence.

The federal sentence was silent on the issue of served time in state custody/as at the time of sentencing, it was not an issue. Since both the federal and state judges expected a total time served by petitioner was not to exceed 70 months, this petition asks for clarification of that point. As it stands now, petitioner is faced with a 90 month sentence, because of this issue. Petitioner feels that this situation is not only unfair, but unjust as well.

Petitioner asks, through this filing, that the sentencing judge correct the original sentence to show it running concurrent with the state sentence. It is petitioner's belief that that is one of the purposes of a §2255 petition, ie. to correct a sentence.

Respectfully submitted,

*Stanton D. Allabe*

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1/14/03

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